

State of Florida

Commissioners:
SUSAN F. CLARK, CHAIRMAN
J. TERRY DEASON
JULIA L. JOHNSON
DIANE K. KIESLING
JOE GARCIA



General Counsel
ROBERT D. VANDIVER
(904) 413-6248

Public Service Commission

August 23, 1996

BY FEDERAL EXPRESS

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

RECEIVED
AUG 26 1996
FCC MAIL ROOM


DOCKET FILE COPY ORIGINAL

Re: CC Docket No. 96-146 - Policies and Rules Governing Interstate Pay-Per-Call
and Other Information Services Pursuant to the Telecommunications Act of
1996.

Dear Mr. Caton:

Enclosed are the original and ten copies of the Florida Public Service Commission's
comments in the above docket. Please date-stamp one copy and return it in the enclosed
self-addressed stamped envelope. We are also forwarding a hard copy, plus diskette, of our
comments to Mary Romano of the Common Carrier Bureau.

Sincerely,


Cynthia B. Miller
Associate General Counsel

CBM/jb
Enclosure

cc: International Transcription Service
2100 M Street, NW
Suite 140
Washington, D.C. 20037

Brad Ramsay
NARUC
1102 Interstate Commerce Commission Building
Constitution Avenue & 12th Street NW
Washington, D.C. 20042

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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of:)

Policies and Rules Governing)
Interstate Pay-Per-Call and Other)
Information Services Pursuant to)
the Telecommunications Act of)
1996)
_____)

CC Docket No. 96-146

RECEIVED
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COMMENTS OF THE FLORIDA PUBLIC SERVICE COMMISSION

On July 11, 1996, the Federal Communications Commission (FCC) issued an Order and Notice of Proposed Rulemaking (NPRM) requesting comments on its proposed rule changes to implement the requirements of the Telecommunications Act of 1996 (1996 Act) and on whether additional requirements are needed to deter entities seeking to circumvent the consumer safeguards incorporated in the federal pay-per-call regulations. The Florida Public Service Commission (FPSC) is pleased to offer comments on these issues. We have organized our comments to follow, as closely as possible, the structure and paragraph numbering of the NPRM.

The FPSC supports the FCC's placement of new requirements on pay-per-call and other providers of information services by amending Part 64 to codify the relevant provisions of the 1996 Act. We also applaud the FCC's foresight in proposing additional rule changes in an effort to protect consumers from pay-per-call providers and carriers that may seek to evade the new provisions of Part 64. However, the FPSC is concerned that the proposed

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amendments may still allow opportunities for unscrupulous providers to abuse the local exchange company (LEC) billing system by billing unauthorized charges to telephone subscribers. For this reason, the FPSC believes that implementation of a LEC billing block option, such as the one proposed in our Petition to Initiate Rulemaking submitted to the FCC on December 7, 1995, is needed to provide additional protection to consumers from unauthorized charges.

II. BACKGROUND

The number of consumers that have contacted the FPSC regarding pay-per-call charges indicates that there may have been a slight decrease in complaints as a result of voluntary measures taken by some local exchange companies (LECs). However, this decrease was offset by complaints resulting from information providers (IPs) and common carriers exploiting the tariffed services exemption contained in the Telephone Disclosure and Dispute Resolution Act (TDDRA). In 1995, over 800 consumers contacted the FPSC regarding pay-per-call services and during the first seven months of 1996 almost 400 consumers contacted the FPSC on this issue. (¶ 9)

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A. Requirements of Amended Section 228

1. "Billing for 800 Calls" -- 47 U.S.C. § 228(c)(7)

The amended provision requires a common carrier to prohibit, by tariff or contract, an IP from billing the calling party for information conveyed during the call unless the IP first obtains a written agreement from the calling party or the calling party is charged for the information by means of a credit, prepaid, debit, charge, or calling card. The written agreement may also include an agreement transmitted through an electronic medium. The FPSC is concerned that some IPs may resort to falsification of such agreements in order to bill consumers.

We base this concern upon examples of apparent forgeries that we have uncovered during investigations of unauthorized changes in long distance carriers (slamming). Many of the consumers who have filed complaints with the FPSC, have alleged that a forgery of their signature on the letter of authorization (LOA) resulted in their long distance carrier being changed without their authorization (Attachment A). While it may not be possible to completely protect consumers from fraud, the FPSC believes that the billing block option proposed in our Petition to Initiate Rulemaking offers an effective method for consumers to protect

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themselves from unauthorized pay-per-call charges being placed on their LEC telephone bill. (§ 16)

**2. "Restrictions on the Use of Toll-Free Numbers" -- 47
C.F.R. § 64.1504**

The amended provision which codifies the 1996 Telecommunications Act's definition of a calling card, Section 64.1501(c), allows ". . . the individual to be charged by means of a phone bill for charges incurred independent of where the call originates." The FPSC is concerned that this language will continue to allow individuals to bill calls to telephone numbers for which they are not the subscriber of record. We believe that the only person who should be able to obtain a calling card that allows the billing of information service calls to a telephone number should be the LEC customer who is the subscriber of record responsible for that telephone number. We continue to receive complaints from subscribers who have been billed for calls either placed from or billed to their telephone number but not authorized by them (Attachment B). (§ 44)

The FCC asked for comment on its tentative conclusion that a carrier's billing of calls dialed to an 800 or other toll-free number on the basis of automatic number identification (ANI) is a

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violation of Section 228(c)(7)(A) of the Telecommunications Act unless the call involves use of telecommunications devices for the deaf. It is our opinion that carriers are violating Section 228(c)(7)(A) of the Telecommunications Act when they use ANI as a basis for billing calls placed to information services accessed through toll-free numbers. We believe that using originating ANI to bill calls placed to toll-free numbers encourages toll fraud since the individual making the call may not be the telephone subscriber. Although regular toll calls may be billed to the originating ANI regardless of whether the subscriber is the person who places the call, we believe that calls to information service providers should be treated differently. We believe that a LEC proprietary card billing block option, as outlined in our Petition to Initiate Rulemaking, is needed to protect subscribers from being charged on LEC bills for unauthorized calls to information services placed from their telephone. (§ 45)

In conclusion, the FPSC believes the requirements for presubscription agreements and billing measures contained in the FCC's Order and NPRM will not be sufficient to prevent the pay-per-call industry from continuing to engage in deceptive billing practices. Therefore, it is our opinion that a LEC proprietary card billing block option, as outlined in our Petition to Initiate

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Rulemaking, is an additional measure needed to deter entities seeking to circumvent the consumer safeguards incorporated in the federal pay-per-call regulations.

Respectfully submitted,



CYNTHIA B. MILLER
Senior Attorney

FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

DATED: August 23, 1996

FLORIDA PUBLIC SERVICE COMMISSION
DIVISION OF CONSUMER AFFAIRS

SPECIAL REQUEST REPORT

SLAMMING REPORT PRINTED ON: 08/02/96

UTILITY	COMPLAINANT	TYPE	RECVD	J	T	CLOSE	STAFF	COUNTY	COMPLAINT I
AT&T COMMUNICATIONS OF THE	RUFFIN, JOHN	LS-13H	01/10/96	T		04/18/96	JFP	BRO	104722I
AT&T COMMUNICATIONS OF THE	YARHI, DANIEL	LS-13H	01/26/96	T		03/11/96	KES	DADE	107849I
AT&T COMMUNICATIONS OF THE	BORDEN, PAUL A.	LS-13H	01/29/96	T		02/29/96	RWM	DADE	108201I
AT&T COMMUNICATIONS OF THE	ANGEL, GERMAN	LS-13H	02/06/96	T		02/29/96	SAS	DADE	110033I
AT&T COMMUNICATIONS OF THE	YARBER, ROBERT	LS-13H	03/05/96	T		05/07/96	SHM	DADE	115311I
AT&T COMMUNICATIONS OF THE	SOSA RODRIGUEZ, GILDA	LS-13H	03/06/96	T		06/28/96	RWM	DADE	115452I
AT&T COMMUNICATIONS OF THE	DUNBAR, IRIS	LS-13H	03/28/96	L		06/28/96	JRD	DADE	119396I
AT&T COMMUNICATIONS OF THE	WYNN, SANDRA	LS-13H	04/01/96	T		04/30/96	SCA	DADE	119786I
AT&T COMMUNICATIONS OF THE	HOPKINS, ROBERTA	LS-13H	04/15/96	T		06/28/96	DBM	ORN	121963I
AT&T COMMUNICATIONS OF THE	DANIELS, RON	LS-13H	04/17/96	T		06/28/96	SAS	DADE	122248I
AT&T COMMUNICATIONS OF THE	CALA, LUIS	LS-13H	05/13/96	L		07/17/96	DBM	DADE	125193I
AT&T COMMUNICATIONS OF THE	RAKESTRAW, LEE (MRS)	LS-13H	06/11/96	L		06/28/96	JRD	DADE	128569I
EXCEL TELECOMMUNICATIONS, I	CHRENKO, CHARLES	LS-13H	01/04/96	T		03/04/96	SAS	PAS	104093I
EXCEL TELECOMMUNICATIONS, I	BLINKEY, FRANCIS	LS-13H	01/18/96	T		05/23/96	KMT	PIN	106116I
EXCEL TELECOMMUNICATIONS, I	SHOENWETTER, HENRY	LS-13H	04/04/96	T		04/25/96	SCA	BRO	120631I
EXCEL TELECOMMUNICATIONS, I	BIANCHINI, BIRDIE	LS-13H	04/23/96	T		05/15/96	RWM	OKE	122893I
HOME OWNERS LONG DISTANCE I	CALFANO, JASON & LINA	LS-13H	01/26/96	T		02/08/96	KES	HILL	107822I
LCI INTERNATIONAL TELECOM C	ZIMMERMAN, MARVIN	LS-13H	01/04/96	L		02/28/96	KES	SAR	104059I
LCI INTERNATIONAL TELECOM C	BECK, ROYCE	LS-13H	05/23/96	L		06/28/96	KES	ORN	126450I
LCI INTERNATIONAL TELECOM C	POOLE, ETHAN	LS-13H	05/28/96	T		06/28/96	DBM	ORN	126860I
LCI INTERNATIONAL TELECOM C	BIGGS, DOUGLAS W.	LS-13H	06/17/96	T		07/12/96	SAS	ORN	129372I
LCI INTERNATIONAL TELECOM C	ALBRIGHT, HOWARD	LS-13H	06/27/96	T		07/29/96	KES	ORN	130977I
MCI TELECOMMUNICATIONS CORP	C & J MULTISERVICES	LS-13H	01/19/96	L		05/23/96	JRD	DADE	106624I
MCI TELECOMMUNICATIONS CORP	LENNUS, BRIAN	LS-13H	02/07/96	L		05/23/96	RWM	PIN	110126I
MCI TELECOMMUNICATIONS CORP	DELGRAD, LUCCE	LS-13H	02/27/96	T		04/30/96	SCA	DADE	113474I
MCI TELECOMMUNICATIONS CORP	CALABRA, VINCENT	LS-13H	02/28/96	T		05/23/96	KMT	PLB	114114I
METRACOM CORPORATION	SOUTHERN MUSIC DISTRIBUTING CO.	LS-13H	04/29/96	T		05/31/96	KES	ORN	123667I
MFS INTELENET OF FLORIDA, I	LEIVA, CARLOS	LS-13H	02/29/96	L		05/23/96	KES	DADE	114373I

28 records printed

TOTAL FOR SWEEPSTAKES: 0
 TOTAL FOR TELEMARKING: 0
 TOTAL FOR NAME/ANI MATCH: 0
 TOTAL FOR KEYPUNCH ENTRY: 0
 TOTAL FOR RESELLER-UNCERTIFIED: 0

TOTAL FOR MISLEADING LOA: 0
 TOTAL FOR 800 SERVICE CENTER: 0
 → TOTAL FOR FORGERY: 28
 TOTAL FOR UNEXPLAINED ERROR: 0
 TOTAL FOR OTHER: 0

7-11-96

FL. PUBLIC SERVICE COMMISSION

ATTN: RUTH MCHARGUE :

RUTH:

I AM WRITING IN RESPONSE TO OUR PHONE CONVERSATION TODAY.

AMERICAN TEL NET HAD A "900" CALL THAT WAS BILLED TO MY PHONE NUMBER. I WILL AGREE THAT IS MY PHONE NUMBER, HOWEVER I HAVE NEVER MADE A "900" CALL - INCLUDING THIS ONE.

UPON RECEIVING THEIR LETTER AND BILL (SEE ATTACHED) I CALLED AMERICAN TEL NET TODAY. THEIR REP., ANTHONY GARCIA, EXPLAINED THAT THEIR VOICE CAPTURE PROCESS HAD NO VOICE RECORDING; BUT I WAS STILL LIABLE FOR THE BILL.

I EXPLAINED THAT I WAS NOT GOING TO PAY THE BILL, ESPECIALLY SINCE I NEVER MADE THIS CALL. MR. GARCIA THEN TOLD ME THAT HE WOULD PLACE MY NAME WITH A CREDIT BUREAU SUCH AS "EQUIFAX." IN ADDITION HE SAID "I HOPE THAT I AM WORKING WHEN YOU CALL BACK, MORE UPSET THAN YOU ARE NOW, TO TELL YOU THAT YOU STILL HAVE TO PAY THIS BILL."

AS I EXPLAINED TO YOU ON THE PHONE, I FEEL THAT I SHOULD NOT BE LIABLE FOR THIS BILL JUST BECAUSE THEY SAID THIS CALL CAME FROM MY PHONE NUMBER. I ABSOLUTELY DID NOT MAKE THIS CALL, AND THEIR "VOICE CAPTURE" SHOWS NO CONFIRMATION OF ANY CALL BEING MADE AT ALL.

THANK YOU FOR YOUR ASSISTANCE IN TURNING THIS MATTER OVER TO YOUR COMMUNICATIONS DIVISION.

PLEASE KEEP ME INFORMED ON THE PROGRESS OF
THIS CASE, I.E. AMERICAN TEL NET'S RESPONSE, AND ANY
ADDITIONAL ACTION I SHOULD TAKE.

SINCERELY,
Scott Palo

SCOTT PALO

1310 CARIBBEAN WAY

LANTANA, FL. 33462

(561) 588-8850 - HOME

(800) 233-6911 - WORK



AMERICAN TELNET

Customer Name: SCOTT PALO

Account: 561-588-8850

Statement Date: July 10, 1996

Page: 1

Past Due Notice

The following 900 Charges originally appeared on your local telephone bill for information services provided to you. Your failure to pay these past due charges has resulted in our blocking your telephone from accessing our services. Your telephone company has no further authority and will no longer attempt to contact you regarding this debt. Effective immediately, ATN is demanding payment in full for your past due balance. YOUR PAYMENT IS DUE AT ONCE.

For ATN Billing Questions, Call 1-800-501-5101

Detailed Statement of Charges

Date	Time	Number Called	Minutes	Amount
10/07/95	05:49pm	407-588-8850	3	11.97
Total				11.97

800-342-3552

1-800-511-0809 FX.

RUTH McHARGUE

FL. PUBLIC SERVICE COMMISSION

6110 Oak Fern Court
Temple Terrace, FL 33617

July 8, 1996

Mr. Kenya Thompkins
Florida Public Service Commission
Tallahassee, FL

Attachment B
Page 4 of 5

FAX: 1.800.511.0809

Dear Mr. Thompkins

Attached is a copy of page 7 of my June 1996 GTE Florida telephone bill. This page shows charges from TBS, Inc. Regulated Service, Billing for Crown II. It indicates that a regulated telephone call was placed from my telephone on May 24, to Toronto, ON with total charges of \$98.67 for 20 minutes of weekend calling. I have been advised by all members of my household that they made no such call.

On Wednesday, July 3, 1996, I called the number listed for TBS on this page to discuss this with them. TBS told me that people calling this number were advised during the conversation that if they stayed on the line, charges would be assessed to them. When I advised TBS that the call was not placed from my telephone, the quick, immediate response was that they traced it to my telephone, and that, indeed, the call had been placed from my telephone. This surprised me, because in my dealings with AT&T and GTE Florida, they always had to check to ensure that calls were placed from my telephone. After some fruitless discussion with this person, I asked to talk to a supervisor. *

I advised the supervisor that the call was not placed from my telephone. The quick, immediate response from the supervisor was that the call had been traced to my telephone. When I suggested to the supervisor that there were ways for third parties to place calls, she advised me that I had to prove that the call was not placed from my telephone. How do you prove something did not happen? When I asked to speak to her supervisor, she told me she was the senior supervisor and that I could not talk with anyone else. When pressed on this, she told me to have a good day and hung up. Kind of rude, I thought.

I called GTE Florida and discussed this with them. The Customer Service Representative told me she would try to have this removed from my bill and have TBS bill me directly. She suggested I call back prior to paying the bill to see if she was successful.

I then called you. You told me that this is not a regulated service. You also told me that you have received other complaints against TBS. You advised me to FAX a copy of the bill and a letter explaining what happened, copying the Federal Communications Commission, Common Carrier Bureau.

Sincerely,

Timothy M. Badger
813.985.1924

cc: Federal Communications Commission



TELEPHONE NUMBER 813 985-1924 Customer ID 71120
BILL DATE June 25, 1996

PAGE 7 OF 8

TBS, Inc.
billing questions
1 800 748-4309

LONG DISTANCE CALLS

Billing for TBS, Inc.

TBS, Inc. Regulated Service

Billing for Crown II

Regulated Calls

Direct Dialed Calls

Date	Time	Place called	Number called	Period	Min.	Amount
1 May 24	4:37 am	Toronto ON	416 754-5618	Wknd	20	\$ 95.81
Total						\$ 95.81

For questions concerning your bill, call the number listed at the top of this page.
The calls on this page were forwarded by TBS, Inc., the clearinghouse agent for Crown II.

Taxes and Fees on TBS, Inc. Regulated Services	Amount
2 Federal excise tax (3.00% of \$95.80)	\$ 2.87
Total	\$ 2.87

TBS, Inc. regulated service charges \$ 98.6

Total long distance/TBS, Inc. \$ 98.67

*Letter outlining
what happened*

FPSC
Consumer Affairs
800 342 3552
Kenya Thompson
FAX 1-800-511-0809

Fed Comm Comm
Common Carrier Bureau
Mail Stop Code 1600A2
Wash D.C. 20557

T = 7

15 1212 8139851924 711204 00 00 FL210*HBRDAI

00022232 3P0808135271

COMMENTS OF THE FLORIDA PUBLIC SERVICE COMMISSION
CC DOCKET NO. 96-146

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554


In the Matter of:

Policies and Rules Governing
Interstate Pay-Per-Call and Other
Information Services Pursuant to
the Telecommunications Act of
1996

CC Docket No. 96-146

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing
Comments of the Florida Public Service Commission has been
furnished to the attached list this 23rd day of August, 1996.


CYNTHIA B. MILLER
Senior Attorney

AT&T Communications of the Southern
States, Inc.
101 North Monroe Street, Suite 700
Tallahassee, Florida 32301-1549

AT&T Communications of the Southern
States, Inc.
1200 Peachtree Street, NE
Atlanta, Georgia 30309-3523

Integretel, Inc.
Atten: Mr. Karl Matthews
5883 Rue Ferrari
San Jose, California 95138-1857

MCI Metro Access Transmission
Services, Inc.
780 Johnson Ferry Road
Suite 700
Atlanta, Georgia 30342

Sprint
Post Office Box 165000
(Mail Code 5326)
Altamonte Springs, Florida 32716-5000

Sprint
3100 Cumberland Circle
Atlanta, Georgia 30339

Sprint Gateways
901 East 104th Street
Kansas City, Missouri 64131

Sprint Metropolitan Networks, Inc.
Post Office Box 162922
(Mail Code 4380)
Altamonte Springs, Florida 32751-292

Sprint Payphone Services, Inc.
Post Office Box 150809
Altamonte Springs, Florida 32715-0809

Sprint/United Telephone - Florida
315 South Calhoun Street
Suite 740
Tallahassee, Florida 32301-1843

International Telemedia Associates
Inc.
340 Interstate North Parkway
Suite 200
Atlanta, Georgia 30339

Todd Stone
State Attorney General's Office
110 Tower
110 SE 6th Street
Fort Lauderdale, Florida 33301

Enhanced Services Billing, Inc.
Jeanne Jackson, Vice President
9311 San Pedro, Suite 400
San Antonio, Texas 78216

Peter Jacoby
AT&T Corporation
295 North Maple Avenue
Room 3244J1
Basking Ridge, New Jersey 07920

M. Robert Sutherland
1155 Peachtree Street, NE
Suite 1700
Atlanta, Georgia 30309-3610

Mary McDermott
United States Telephone Assoc.
1401 H Street NW, Suite 600
Washington, DC 20005

Mary J. Sisah
MCI Telecommunications Corporation
1801 Pennsylvania Avenue, NW
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